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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,942	01/28/2005	Heiko Schutz	BM-163PCT	8398
40570	7590	02/27/2007		
FRIEDRICH KUEFFNER 317 MADISON AVENUE, SUITE 910 NEW YORK, NY 10017			EXAMINER MERLINO, ALYSON MARIE	
			ART UNIT	PAPER NUMBER
			3676	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/522,942	SCHUTZ ET AL.	
	Examiner	Art Unit	
	Alyson M. Merlino	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following office action is in response to the amendment filed on December 11, 2007.

Claim Objections

2. **Claims 1-23 are objected** to because of the following informalities:
 - a. Within all of the claims, the examiner suggests that the reference characters be removed.
 - b. Within all of the claims, inconsistent terminology is used throughout when referring to components and positions of applicant's device, such as the first reference to "the stationary opposing rotating coupler element" in line 3 on page 10 of claim 1 of the amended claims, and the second reference to that same component, but noted as "the opposing rotating coupler element" in line 10 on that same page. Furthermore, when the reference characters are removed from the claims, as suggested above, the inconsistent terminology makes the claims confusing, i.e. without the reference characters, one cannot tell what components applicant is discussing.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. **Claims 1-23 are replete** with references to components, movements, and movement positions of applicant's device that are not discussed earlier in the claim(s) or

Art Unit: 3676

do not use consistent terminology. These claims are rejected as having insufficient antecedent basis for the limitations within the claims.

5. Furthermore, the claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

6. **Claims 1-23 are rejected** as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

7. By example only, lines 1-10 on page 10 of claim 1 of the amended claims, appear as shown below:

with the coupler ~~this~~ element (45) when the combination (20) is in the outwardly-pivoted position (20.2); in that

-- the stationary opposing rotating coupler element (35) is mounted in the same perpendicular plane in which the rotating coupler element (45) moves during a ~~the coupling movement~~ (25) of the combination (20); and in that

-- during the last phase of the outward-pivoting movement (25) of the combination (20), the coupling point of the rotating coupler element (45) engages with the opposing coupling point of the opposing rotating coupler element (35).

Art Unit: 3676

The underlined portions of the claim denote phrases that have lack of antecedent basis issues because of inconsistent terminology, or that the components or positions of applicant's claimed invention are not discussed earlier in the claim(s). The italicized phrases are functional or operational language. This example is only a portion of the lack of antecedent and inconsistent terminology issues found in claim 1, and are not limited to the errors indicated.

8. **The examiner strongly suggests that all the claims are thoroughly reviewed for all permutations of the aforementioned errors, and are rewritten to comply with current U.S. practice.**

Allowable Subject Matter

9. **Claims 1-23 would be allowable** if rewritten or amended to overcome the rejection (s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office Action.

10. Furthermore, claims 1-23 would be allowable if rewritten or amended to overcome the aforementioned objections and overall confusing terminology and functional language.

Response to Arguments

11. **In regards to the grammatical errors in claim 1**, as discussed by applicant on page 21 of the remarks, the examiner agrees with applicant that no grammatical change to the portion of claim 1 in question was necessary.

12. As stated above in reference to the 35 U.S.C. 112, second paragraph, issues and the inconsistent terminology, it is applicant's responsibility to **thoroughly** review all

Art Unit: 3676

the claims and make the proper corrections. After the claims are rewritten to overcome the aforementioned rejections, the claims would be in condition for allowance.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

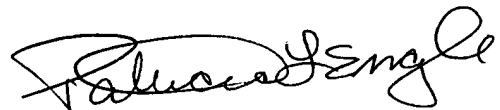
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyson M. Merlino whose telephone number is (571) 272-2219. The examiner can normally be reached on Monday through Friday, 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3676

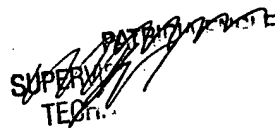
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AMAM
February 15, 2007



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2-20-07


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